

APPEAL,APPEAL_NAT,CLOSED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:16-cv-00106
Internal Use Only**

Schwartz v. Cruz
Assigned to: Judge Gray H. Miller
Demand: \$0
Cause: 28:1331 Fed. Question

Date Filed: 01/14/2016
Date Terminated: 04/13/2016
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Plaintiff

Newton Boris Schwartz, Sr.

represented by **Newton Boris Schwartz , Sr**
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ATTORNEY TO BE NOTICED

V.

Defendant

Ted Cruz
also known as
Rafael Edward Cruz

represented by **Layne Edwin Kruse**
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LEAD ATTORNEY
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Intervenor

Terry Wayne Wheelock
TERMINATED: 02/17/2016

represented by **Terry Wayne Wheelock**
 7704 Terry Drive
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 817-888-4457
 PRO SE

Date Filed	#	Docket Text
01/14/2016	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0541-16015252) filed by Newton B. Schwartz, Sr. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit A-1, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Civil Cover Sheet)(Schwartz, Newton) (Entered: 01/14/2016)
01/15/2016	<u>2</u>	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Scheduling Order Deadline date 4/27/2016(Signed by Judge Gray H. Miller) Parties notified.(mmiller, 4) (Entered: 01/15/2016)
01/19/2016		Summons Issued as to Ted Cruz. Issued summons returned to plaintiff by: In person, filed. (smurdock, 4) (Entered: 01/19/2016)
01/19/2016	<u>3</u>	AMENDED COMPLAINT against All Plaintiffs filed by Newton Boris Schwartz, Sr. (Attachments: # <u>1</u> Exhibit F, # <u>2</u> Exhibit G, # <u>3</u> Exhibit H, # <u>4</u> Exhibit H-1, # <u>5</u> Exhibit H-2, # <u>6</u> Exhibit H-3, # <u>7</u> Exhibit I)(Schwartz, Newton) (Entered: 01/19/2016)
01/27/2016	<u>4</u>	MEMORANDUM in support by Newton Boris Schwartz, Sr, filed. (Attachments: # <u>1</u> Exhibit V-1, # <u>2</u> Exhibit V-2, # <u>3</u> Exhibit V-3, # <u>4</u> Exhibit V-4, # <u>5</u> Exhibit V-5, # <u>6</u> Exhibit V-6, # <u>7</u> Exhibit V-7)(Schwartz, Newton) (Entered: 01/27/2016)
01/28/2016	<u>5</u>	CERTIFICATE OF INTERESTED PARTIES by Newton Boris Schwartz, Sr, filed. (Schwartz, Newton) (Entered: 01/28/2016)
02/01/2016	<u>6</u>	***STRICKEN from the record - See <u>12</u> Order striking*** COMPLAINT in Intervention filed by Terry Wayne Wheelock.(gkelner, 4) Modified on 2/17/2016 (rkonieczny, 4). (Entered: 02/01/2016)
02/03/2016	<u>7</u>	Second AMENDED COMPLAINT against Newton Boris Schwartz, Sr filed by Newton Boris Schwartz, Sr. (Attachments: # <u>1</u> Exhibit H-1, # <u>2</u> Exhibit H-3, # <u>3</u> Exhibit J, # <u>4</u> Exhibit J-1, # <u>5</u> Exhibit K, # <u>6</u> Exhibit L, # <u>7</u> Exhibit M)(Schwartz, Newton) (Entered: 02/03/2016)
02/08/2016	<u>8</u>	First MEMORANDUM <i>Supplemental</i> by Newton Boris Schwartz, Sr, filed. (Attachments: # <u>1</u> Exhibit Ex 1, # <u>2</u> Exhibit Ex 2, # <u>3</u> Exhibit Ex 3, # <u>4</u> Exhibit Ex 4, # <u>5</u> Exhibit Ex 4-A, # <u>6</u> Exhibit Ex 4-B)(Schwartz, Newton) (Entered: 02/08/2016)
02/08/2016	<u>9</u>	NOTICE of Consent to Filing Second Amended Complaint and Acceptance of Service by Ted Cruz, filed. (Whitesell, S.) (Entered: 02/08/2016)
02/11/2016	<u>10</u>	MOTION for Leave to File Motion for Expedited Discovery by Newton Boris Schwartz, Sr, filed. Motion Docket Date 3/3/2016. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit)(Schwartz, Newton) (Entered: 02/11/2016)
02/16/2016	<u>11</u>	Second SUPPLEMENT by Newton Boris Schwartz, Sr, filed. (Attachments: # <u>1</u> Exhibit 5, # <u>2</u> Exhibit 6)(Schwartz, Newton) (Entered: 02/16/2016)
02/17/2016	<u>12</u>	ORDER STRIKING <u>6</u> Complaint in intervention filed by Terry Wayne Wheelock.(Signed by Judge Gray H. Miller) Parties notified.(rkonieczny, 4) (Entered: 02/17/2016)
02/22/2016	<u>13</u>	CERTIFICATE OF INTERESTED PARTIES by Ted Cruz, filed.(Kruse, Layne) (Entered: 02/22/2016)

02/22/2016	<u>14</u>	MOTION to Dismiss <u>7</u> Amended Complaint/Counterclaim/Crossclaim etc., by Ted Cruz, filed. Motion Docket Date 3/14/2016. (Kruse, Layne) (Entered: 02/22/2016)
02/23/2016	<u>15</u>	First APPENDIX re: <u>14</u> MOTION to Dismiss <u>7</u> Amended Complaint/Counterclaim/Crossclaim etc., by Ted Cruz, filed. (Attachments: # <u>1</u> Exhibit British Nationality Act 1730, # <u>2</u> Exhibit Naturalization Act of 1790, # <u>3</u> Exhibit Black's Law Dictionary (var. eds.), # <u>4</u> Exhibit Compendious and Comprehensive Dictionary, # <u>5</u> Exhibit M. Farrand, Records of the Federal Convention, # <u>6</u> Exhibit Federalist 52, # <u>7</u> Exhibit Senate Resolution 511, # <u>8</u> Exhibit 113 Congressional Record 35019 (Senate), # <u>9</u> Exhibit Wright & Miller § 2763, # <u>10</u> Exhibit CRS Report: Qualifications for President and the Natural Born Citizenship Eligibility Requirement, # <u>11</u> Exhibit Clement & Katyal, On the Meaning of Natural Born Citizen, # <u>12</u> Exhibit A Brief for Governor Romney's Eligibility, # <u>13</u> Exhibit Tribe and Olson Opinion Letter)(Whitesell, S.) (Entered: 02/23/2016)
02/24/2016	<u>16</u>	ORDER re briefing schedule regarding <u>14</u> MOTION to dismiss. Plaintiffs response (limited to 25 pages) shall be filed on or before March 14, 2016. Defendants reply, if any, (limited to 5 pages) shall be filed within five days of the plaintiffs response.(Signed by Judge Gray H. Miller) Parties notified.(rkoniczny, 4) (Entered: 02/24/2016)
02/29/2016	<u>17</u>	Reasons why Barrack Obama was not Eligible to be President and why Ted Cruz and Marco Rubio are not eligible to run for the Presidency by Newton Boris Schwartz, Sr, filed. (drodriguez, 7) (Entered: 02/29/2016)
02/29/2016	<u>18</u>	Supreme Court Decision by Newton Boris Schwartz, Sr, filed.(drodriguez, 7) (Entered: 02/29/2016)
03/01/2016	<u>20</u>	INTERVENOR COMPLAINT filed by Terry Wayne Wheelock.(vcantu, 5) (Entered: 03/02/2016)
03/02/2016	<u>19</u>	MOTION to Defer Scheduling or to Stay Proceeding and RESPONSE in Opposition to <u>10</u> MOTION for Leave to File Motion for Expedited Discovery, filed by Ted Cruz. (Attachments: # <u>1</u> Proposed Order)(Kruse, Layne) Modified on 3/11/2016 (rkoniczny, 4). (Entered: 03/02/2016)
03/07/2016	<u>21</u>	ORDER STRIKING <u>17</u> Reasons why Barrack Obama was not Eligible to be President and why Ted Cruz and Marco Rubio are not eligible to run for the Presidency, STRIKING <u>18</u> Supreme Court decision, STRIKING <u>20</u> Intervenor Complaint.(Signed by Judge Gray H. Miller) Parties notified.(rkoniczny, 4) (Entered: 03/07/2016)
03/08/2016	<u>22</u>	AMENDED ORDER STRIKING <u>17</u> Reasons why Barrack Obama was not Eligible to be President and why Ted Cruz and Marco Rubio are not eligible to run for the Presidency, STRIKING <u>18</u> Supreme Court decision, STRIKING <u>20</u> Intervenor Complaint. (Signed by Judge Gray H. Miller) Parties notified.(rkoniczny, 4) (Entered: 03/08/2016)
03/10/2016	<u>23</u>	ORDER Denying <u>10</u> Motion for Leave to File motion for expedited discovery.(Signed by Judge Gray H. Miller) Parties notified.(rkoniczny, 4) (Entered: 03/10/2016)
03/14/2016	<u>24</u>	RESPONSE to <u>14</u> MOTION to Dismiss <u>7</u> Amended Complaint/Counterclaim/Crossclaim etc., filed by Newton Boris Schwartz, Sr. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit A-1, # <u>3</u> Exhibit A-2, # <u>4</u> Exhibit B, # <u>5</u> Exhibit C, # <u>6</u> Exhibit D)(Schwartz, Newton) (Entered: 03/14/2016)
03/21/2016	<u>25</u>	REPLY in Support of <u>14</u> MOTION to Dismiss <u>7</u> Amended Complaint/Counterclaim/Crossclaim etc., , filed by Ted Cruz. (Kruse, Layne) (Entered: 03/21/2016)
03/30/2016	<u>26</u>	ORDER Setting Hearing on <u>14</u> MOTION to Dismiss <u>7</u> Amended Complaint for 4/13/2016 at 10:00 AM in Courtroom 9D before Judge Gray H. Miller.(Signed by Judge Gray H. Miller) Parties notified.(rkoniczny, 4) (Entered: 03/30/2016)
03/31/2016	<u>27</u>	ORDER GRANTING <u>19</u> MOTION to defer scheduling or stay proceedings. All proceedings,

		including discovery are STAYED pending the resolution of defendants motion to dismiss. (Signed by Judge Gray H. Miller) Parties notified.(rkonieczny, 4) (Main Document 27 replaced on 3/31/2016) (rkonieczny, 4). (Entered: 03/31/2016)
04/01/2016	<u>28</u>	Third MEMORANDUM in support by Newton Boris Schwartz, Sr, filed.(Schwartz, Newton) (Entered: 04/01/2016)
04/06/2016	<u>30</u>	Letter from Layne Kruse re: plaintiff's third supplemental memorandum of law, filed. (rkonieczny, 4) (Entered: 04/11/2016)
04/08/2016	<u>29</u>	Fourth MEMORANDUM <i>Supplemental</i> by Newton Boris Schwartz, Sr, filed. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit H-1)(Schwartz, Newton) (Entered: 04/08/2016)
04/11/2016	<u>31</u>	ORDER STRIKING <u>28</u> Third memorandum of law and <u>29</u> Fourth memorandum of law. (Signed by Judge Gray H. Miller) Parties notified.(rkonieczny, 4) (Entered: 04/11/2016)
04/11/2016	<u>32</u>	Supplemental MEMORANDUM of Law (<i>Fifth</i>) by Newton Boris Schwartz, Sr, filed. (Attachments: # <u>1</u> Exhibit A)(Schwartz, Newton) (Entered: 04/11/2016)
04/11/2016	<u>33</u>	NOTICE to the Court re: <u>31</u> Order by Newton Boris Schwartz, Sr, filed. (Schwartz, Newton) (Entered: 04/11/2016)
04/11/2016	<u>34</u>	ORDER STRIKING <u>32</u> Fifth memorandum of law. (Signed by Judge Gray H. Miller) Parties notified.(rkonieczny, 4) (Entered: 04/11/2016)
04/13/2016	<u>35</u>	Minute Entry for proceedings held before Judge Gray H. Miller. MOTION HEARING held on 4/13/2016 re <u>14</u> MOTION to Dismiss <u>7</u> Amended Complaint/Counterclaim/Crossclaim etc. Oral argument heard. Defendant's motion is GRANTED. Order to follow. Appearances: S. Lee Whitesell, Layne Edwin Kruse, Darren Paul Lindamood, Newton Boris Schwartz, Sr. (Court Reporter: M.Malone), filed.(rkonieczny, 4) (Entered: 04/13/2016)
04/13/2016	<u>36</u>	MEMORANDUM OPINION and ORDER OF DISMISSAL GRANTING <u>14</u> MOTION to Dismiss <u>7</u> Amended Complaint/Counterclaim/Crossclaim etc., . Case terminated on 4/13/2016(Signed by Judge Gray H. Miller) Parties notified.(rkonieczny, 4) (Entered: 04/13/2016)
04/14/2016	<u>37</u>	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: <u>31</u> Order, <u>34</u> Order, <u>27</u> Order, <u>36</u> Order of Dismissal by Newton Boris Schwartz, Sr (Filing fee \$ 505, receipt number 0541-16496776), filed.(Schwartz, Newton) (Entered: 04/14/2016)
04/15/2016	<u>38</u>	DKT13 TRANSCRIPT ORDER REQUEST by Schwartz, Newton B.. Transcript is unnecessary for appeal purposes This order form relates to the following: <u>37</u> Notice of Appeal, filed.(Schwartz, Newton) (Entered: 04/15/2016)